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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-03

Legistar #: 20140086

Board of Zoning Appeals Hearing: Monday, February 24, 2014 – 6:00 p.m.

Property Owner: William F. Culley  
1823 Stone Bridge Way  
Marietta, GA 30064

Applicant: Kim Whiting  
% Aquarama Pools, Spas, Service  
565 Powder Springs Street  
Marietta, GA 30064

Address: 1823 Stone Bridge Way

Land Lot: 02810 District: 20 Parcel: 1560

Council Ward: 4C Existing Zoning: PRD-SF (Planned Residential  
Development-Single Family)

### Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow an accessory structure 9' closer to the right-of-way than the principal building. [§708.09(F.1.)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

### Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**1823 Stone Bridge Way – front yard**



**1823 Stone Bridge Way – side yard**



**1823 Stone Bridge Way – side yard**

**Recommended Action:**

**Approval.** The petitioner, Kim Whiting, for the owner, William Culley, is requesting a variance for the placement of an in-ground swimming pool at 1823 Stone Bridge Way. The subject property is a corner lot located within the Barrett Heights subdivision and is zoned PRD-SF (Planned Residential Development – Single Family). All surrounding parcels contain single family detached homes and are also zoned PRD-SF.

On December 12, 2013 the applicant received a building permit to construct an in-ground pool in the rear yard of the property. Section 708.09 (F.1.) states “*All such structures shall be located upon the same lot and to the side or rear of the principal use at least 10 feet from side or rear lot lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.*” Since the existing home is shown as being 23.5’ from the major side property line (Stone Bridge Run), the proposed in-ground pool is required to also be at least 23.5’. However, after receiving the permit for the pool to be at least 24’ from the property line with Stone Bridge Run, the applicant is requesting a variance to shift the pool 9’ closer to the side against Stone Bridge Run. This would place the pool 15’ from the property line.

The backyard of the property has been enclosed with a 6’ white decorative fence. Because the pool will be within the fenced portion of the yard, it will not be visible from or otherwise intrusive to the public right of way, which is the likely purpose of the regulation. Shifting the pool closer to the right of way should not negatively impact any of the surrounding property owners and will allow the property owner the enjoyment of a more reasonably placed pool in the backyard. As a result, ***staff recommends approval of this variance request for the in-ground pool – only as shown on the proposed site plan.***